

**AMERICAN FOUNDRY SOCIETY**

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CAST METALS INSTITUTE

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Marianne Horinko
Assistant Administrator
Office of Solid Waste and Emergency Response (5101T)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Ms. Horinko:

On behalf of the American Foundry Society (AFS), I am writing to provide information to assist the Environmental Protection Agency (EPA) Office of Solid Waste in its efforts to confront the issues raised by the D.C. Circuit Court's ruling in Association of Battery Recyclers (ABR), Inc. v. U.S. EPA, No. 98-1368 (April 21, 2000). Specifically, AFS is extremely interested in how the agency plans to address the redefinition of "solid waste" and clearly identify what materials are within the scope of the Resource Conservation and Recovery Act (RCRA).

At this time, AFS understands that EPA is limiting its efforts to the task of determining what constitutes "the generating industry." AFS is concerned that EPA is not focusing on what we see as the other key provision in the court ruling - the limitation on EPA's authority over only those materials "that are truly discarded, disposed of, thrown away, or abandoned, and these materials have not yet become part of the waste disposal problem."

First, let me be clear that AFS supports EPA's efforts to define the generating industry by North American Industry Classification System (NAICS) and clearly identify that materials recycled within the same codes would fall outside the scope of RCRA jurisdiction. On this point, AFS encourages EPA to classify based on three digit codes, which would allow the most flexibility for industries to move recyclable materials within its sector.

EPA's current approach, however, gets us only half-way to our goal, as it does not address those materials that are not discarded, but beneficially reused by other industries. In order to reach our goal and truly facilitate more legitimate recycling in the United States, AFS strongly encourages the Agency to define "discard" so that the beneficial reuse of materials by industries other than the generating industry fall outside the scope of RCRA jurisdiction as well.

Let me illustrate my point by discussing foundry sand. The foundry industry uses and reuses over 100 million tons of sand annually in its molding processes. Approximately 10 percent, or 10 million tons, is removed from the facility sand loops each year. Most of this sand is viable for beneficial reuse and, in most cases, would supplant the need for virgin materials. EPA estimates that the foundry industry has the potential to beneficially reuse six to ten million tons of nonhazardous spent foundry sand annually. Such an accomplishment would dramatically reduce the dependency on virgin materials, eliminate tons of materials currently being sent to landfills, and could save up to \$250 million in disposal costs.

The beneficial reuse of foundry sand occurs in a number of areas, including the transportation, construction and environmental sectors. These industries can use large quantities of foundry sand as engineered structural fills, hydraulic control barriers, asphalt pavement system aggregates, and controlled low strength material (CLSM) or flowable fill. Smaller quantities of foundry sands can be used in other applications, such as the production of bricks, blocks, Portland cement, agricultural soil amendments and other innovative products usually related to local markets.

The foundry industry is a subset of NAICS code 331 for Primary Metal Manufacturing. The following codes apply to our industry.

- 3315 Foundries
- 33151 Ferrous Metal Foundries
- 331511 Iron Foundries
- 331512 Steel Investment Foundries
- 331513 Steel Foundries (except Investment)
- 33152 Nonferrous Metal Foundries
- 331524 Aluminum Foundries (except Die-Casting)
- 331525 Copper Foundries (except Die-Casting)
- 331528 Other Nonferrous Foundries (except Die-Casting)

In nearly every case, the recipients of the foundry sand destined for beneficial reuse are completely different industry sectors from the ones that apply to metalcasting. The following is a list of the NAICS codes for the various industry sectors that beneficially reuse foundry sands.

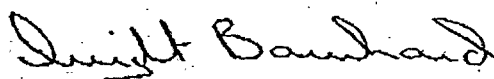
- 21 Mining
- 213 Support Activities for Mining
- 22 Utilities
- 221 Utilities
- 23 Construction
- 233 Building, Developing, and General Contracting
- 234 Heavy Construction
- 2341 Highway, Street, Bridge, and Tunnel Construction
- 23411 Highway and Street Construction
- 23412 Bridge and Tunnel Construction
- 2349 Other Heavy Construction
- 23491 Water, Sewer, and Pipeline Construction
- 324 Petroleum and Coal Products Manufacturing
- 32412 Asphalt Paving, Roofing, and Saturated Materials Manufacturing
- 324121 Asphalt Paving Mixture and Block Manufacturing
- 327 Nonmetallic Mineral Product Manufacturing
- 3271 Clay Product and Refractory Manufacturing
- 32711 Pottery, Ceramics, and Plumbing Fixture Manufacturing
- 3272 Glass and Glass Product Manufacturing
- 3273 Cement and Concrete Product Manufacturing
- 32731 Cement Manufacturing
- 32732 Ready-Mix Concrete Manufacturing

AFS firmly believes that the beneficial reuse of foundry sands and many other industrial by-products would dramatically increase as soon as EPA recognizes that they should not fall under the jurisdiction of RCRA. At a certain point, materials may no longer be viable to serve in their primary capacity, but when they can be used by another industry, they are clearly not "discarded, disposed of, thrown away, or abandoned." Plus, substitution of these industrial by-products for virgin materials helps us achieve the one of the goals of RCRA; "to reduce waste and conserve energy and natural resources."

In conclusion, AFS recognizes that the redefinition of solid waste under RCRA is a daunting task. We suggest that the Agency consider outlining several regulatory options within any proposed rule under development so that you can receive public comments on more than one approach to this extremely complicated issue.

We hope that the information provided in this letter and through our numerous conversations will assist you in shaping the appropriate regulatory structure for solid waste. Please contact Amy Blankenbiller in the AFS Washington Office at (202)842-4864 if you have any questions or need additional information.

Sincerely,



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Executive Vice President

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